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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/640,086	08/13/2003	Henry P. Gabryjelski	MS1-499USC1	7653
22801	7590	11/21/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			PSITOS, ARISTOTELIS M	
			ART UNIT	PAPER NUMBER
			2627	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/640,086	GABRYJELSKI, HENRY P.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aristotelis M. Psitos	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/21/06 has been entered.

#### ***Claim Objections***

The claimed phrase "different block sizes" finds no clear support in the specification as originally filed.

Applicants' comments of 9/21/06 refer to page 20 at line 3 – corresponds to paragraph 54 of the corresponding PGPUB 2004/0034507. It is noted that this language refers to different sector sizes, not blocks. Claimed terminology must agree to that of the terminology used in the specification. Appropriate correction is required.

Claim 12 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Again, dependent claim 12 does not further limit the method of claim 1, but rather introduces a system thereto. This is improper dependent claim. Appropriate correction is required.

As far as the claims are interpreted, the following rejections are made.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1,3-9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer et al further considered with either Yoshinaka or Hayashi and all further considered with Sasaki et al.

Brewer et al discloses an optical disc information editing system for audio visual data, the ability of aligning audio sectors in accordance with a determination predicated upon a disclosed "tab error" – see abstract as well as col 1 line 1 to col. 5 line 20. The system's final operational parameters/operational

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settings are appropriately control by the overall system desired result – i.e., aligning the audio sectors/frames accordingly. The examiner interprets frames as sectors. There is no clear disclosure with respect to the claimed “generating one or more metrics” as recited in claim 1.

Either Yoshinaka or Hayashi disclose in this environment, the ability of generating “metrics” in their disclosed decoding systems – see branch metrics calculation in Yoshinaka or the Viterbi decoder in Hayashi.

It would have been obvious to modify the base system of Brewer et al with the above teaching from either of the secondary references, motivation is as discussed in either of the secondary references, the proper signal decoding capability and hence leading to correction of any misalignment of the audio sectors/information.

With respect to the newly inserted terminology previously found in claim 2, the audio in Brewer et al is interpreted as an audio block. As noted in col. 7, lines 24 plus these are of variable size.

Furthermore as further discussed/disclosed by Sasaki et al, audio blocks/sectors vary as the amount of information contained therein. Hence when reproduced the ability of having in the reading step the size variation is considered to logically follow, else the information would not be reproducible.

With respect to claims 3,4,7 and 9, the amplitude difference is interpreted as present from either of the secondary references, i.e., the branch metric calculation of Yoshinaka or the Viterbi decoder of Hayashi. With respect to first and second bundle, the examiner interprets such as present by the discussion of the different types of audio information discussed in the primary reference to Brewer et al, i.e., “stereo” as provided basis for a first bundle (left of right channel) and a second bundle (right or left channel).

With respect to claims 5,6, and 8, i.e., the position of the first and second bundle, the examiner further considers such a placement, i.e., as claimed immediately adjacent to be met by normal stereo audio recordings, i.e., a left and right channel are normally immediately adjacent to each other.

With respect to claims 6 and 8 as they further recite control “one or more” operational settings, at least one is set by the overall combination of references as relied upon with the analysis of claim 1.

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With respect to claim 11 the record medium in Brewer et al is interpreted as the claimed "machine readable".

With respect to claim 12, the overall system of Brewer et al is interpreted as a "computer" system, i.e., a storage device – the appropriate record medium being used/accessed, and the execution unit – the processor thereto.

### ***Response to Arguments***

Applicant's arguments filed 9/21/06 have been fully considered but they are not persuasive.

Applicants argue that although there is in Brewer et al, indication of variable sizes, there is no iterative reading capability disclosed. The examiner is not persuaded, because as noted in Brewer as well as the newly cited reference to Sasaki et al, the variation of the block size is predicated upon the amount of information to be contained/recorded. Hence as the block size varies, obviously in any reading capability/process/method such must be accounted for, else the information will not be reproduced properly. Hence the examiner concludes that such a limitation – i.e., the iteratively reading logically follows, i.e., would be obvious to one of ordinary skill in the art in order to read/reproduce the information correctly.

The dependent claims fall accordingly.

2. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 as stated in paragraph 1 above, and further in view of well known RLL/ or Huffman coding/decoding capabilities as further discussed in Sethuraman – see col. 1 lines 26-41.

It would have been obvious to modify the base system as relied upon above in paragraph 8 with the additional teaching from Sethuraman, motivation is as disclosed/taught therein, for proper intra-frame coding/decoding.

### ***Response to Arguments***

The dependent claim falls with its respective parent claim for the reasons amplified above.

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3. Claims 1 and 11-12 are rejected under 35 U.S.C. 103 (a) as being obvious over Ledermann further considered with either Yoshinaka or Hayashi and further considered with Shen et al and Sasaki et al.

Ledermann discloses an optical medium playback system in which information is read, a particular tonal signal – interpreted as the claimed “subset of audio content”. Such subset is analyzed. There is no particular disclosure with respect to the remaining claimed limitation of generating one or more metrics of the drive accuracy based on such analysis. Although the system to Ledermann wants to detect “jitter” and such is predicated upon analyzing his subset of the audio content, there is no “metrics”.

Either Yoshinaka or Hayashi disclose in this environment, the ability of generating “metrics” in their disclosed decoding systems – see branch metrics calculation in Yoshinaka or the Viterbi decoder in Hayashi.

It would have been obvious to modify the base system of Ledermann with the above teaching from either of the secondary references, motivation is as discussed in either of the secondary references, the proper signal decoding capability and hence leading to correction of any misalignment of the audio sectors/information.

With respect to the newly introduce step as previously recited in claim 2, the examiner interprets the information read as a block of audio. Furthermore, the ability of having and detecting audio blocks of different sizes is well known as further taught by the Shen et al reference. Additionally, Sasaki et al also discloses such an ability in order to reproduce information of varying block sizes.

It would have been obvious to modify the references to Ledermann and Yoshinaka or Hayashi with the additional teachings from Shen and Sasaki et al, motivation is to properly reproduce varying block sizes in order to properly reproduce such previous recorded/found on the record medium.

With respect to claim 11, since a readable medium is part and parcel of the base reference, this limitation is met. This claim is interpreted as presented herein – i.e., a dependent claim, but see the above objection thereof.

With respect to claim 12 it is met by the above combination, i.e., an optical media as a machine readable medium having the appropriate plurality of information recorded thereon, as when read – as

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when desired to be used by a user – in the above overall system, appropriate one or more performance attributes/jitter for instance is appropriate quantifiably measured.

***Response to Arguments***

Applicant's arguments filed 9/21/06 have been fully considered but they are not persuasive.

The examiner relies upon the rejection as stated above.

The dependent claims fall accordingly with their respective parent claim.

4. Claims 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 2 above as stated in paragraph 3 above, and further in view of Brewer et al and the secondary references to either Yoshinaka or Hayashi.

In Brewer et al is interpreted as an audio block as well as stereo audio – i.e., a first and second bundle.

With respect to claims 3,4,7 and 9, the amplitude difference is interpreted as present from either of the secondary references, i.e., the branch metric calculation of Yoshinaka or the Viterbi decoder of Hayashi. With respect to first and second bundle, the examiner interprets such as present by the discussion of the different types of audio information discussed in the primary reference to Brewer et al, i.e., "stereo" as provided basis for a first bundle (left of right channel) and a second bundle (right or left channel).

With respect to claims 5,6, and 8, i.e., the position of the first and second bundle, the examiner further considers such a placement, i.e., as claimed immediately adjacent to be met by normal stereo audio recordings, i.e., a left and right channel are normally immediately adjacent to each other.

With respect to claims 6 and 8 as they further recite control "one or more" operational settings, at least one is set by the overall combination of references as relied upon with the analysis of claim 1.

***Response to Arguments***

Applicant's arguments filed 9/21/06 have been fully considered but they are not persuasive for the reason stated against the parent claim above.

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The dependent claim falls with its respective parent claim, as noted above in paragraphs 3 and 4 above.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 as stated in paragraph 3 above, and further in view of well known RLL/ or Huffman coding/decoding capabilities as further discussed in Sethuraman – see col. 1 lines 26-41.

With respect to claim 10, the ability of having inter-frame/sector control is considered met by the appropriate RLL or Huffman coding/decoding abilities for intra-frame alignment.

It would have been obvious to modify the base system as relied upon above in paragraph 3 with the additional teaching from Sethuraman, motivation is as disclosed/taught therein, for proper intra-frame coding/decoding.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DeGroat et al is cited as illustrative of a channel quality detection system in this environment, using analysis of the information for appropriate generation of "metric" values in order to optimize the operation of the playback system – see the abstract for instance, and the discussion with respect to figures 4 and 8 starting at cols. 11 line 49 till col 12 line 59 and col. 14 line 27-63.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

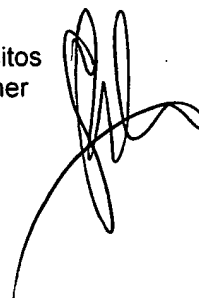
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos  
Primary Examiner  
Art Unit 2627

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

AMP